



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R8-ES-2013-0054]

[4500030113]

Endangered and Threatened Wildlife and Plants; Status Review of the West Coast Distinct Population Segment of the Fisher as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the opening of an information gathering period regarding the status of the fisher (*Martes pennanti*) throughout the range of its West Coast distinct population segment (DPS) in the United States. The status review will include analysis of whether the West Coast DPS of the fisher warrants listing as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). We encourage interested parties to provide us information

regarding the status of, and any potential threats to, the West Coast DPS of the fisher.

DATES: We will consider information received or postmarked on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Information submitted electronically using the Federal eRulemaking Portal (see

ADDRESSES section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>.

Search for FWS–R8–ES–2013–0054, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments

Processing, Attn: FWS–R8–ES–2013–0054; Division of Policy and Directives

Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM;

Arlington, VA 22203.

We request that you send information only by the methods described above. We will post all submitted information on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more information).

FOR FURTHER INFORMATION CONTACT: Erin Williams, Field Supervisor, or Nadine Kanim, at the Yreka Fish and Wildlife Office, 1829 S. Oregon St., Yreka, CA 96097; by telephone (530) 842–5763; or by facsimile (530) 842–4517. Persons who use

a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Request for Information

This document solicits biological, economic, or other data on the status of, and potential threats to, the West Coast DPS of the fisher, a medium-sized mammal of the mustelid family. This information, along with other sources of data, will be used to determine if the West Coast DPS of the fisher warrants listing as endangered or threatened under the Act (16 U.S.C. 1531 *et seq*). We request any new information concerning the status of the West Coast DPS of the fisher. Information already submitted since 2004 (see species assessment:

http://ecos.fws.gov/docs/candidate/assessments/2013/r8/A0HS_V01.pdf) will be considered and need not be resubmitted. We will base our status review on the best scientific and commercial information available, including all information received as a result of this document. We are soliciting information and supporting data through this 45-day period to gain additional information and specifically seek information on the following:

- (1) Information regarding the species' historical and current population status, distribution, abundance, and trends; biology and ecology; and habitat selection.

(2) Information on the effects of potential threat factors that are the basis for a species' listing determination under section 4 (a) of the Act (16 U.S.C. 1533(a)), which are:

(a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) Inadequacy of existing regulatory mechanisms; and

(e) Other natural or manmade factors affecting its continued existence.

(3) Scientific and commercial data to assist in development of any proposed critical habitat designation that we may make, including:

(a) Habitat selection and use, and any changes or trends in the amount and distribution of habitat for the West Coast DPS of the fisher;

(b) Habitat requirements for feeding, breeding, and sheltering, including particular physical or biological features that are essential to the conservation of the species and where such physical or biological features are found;

(c) Whether any of these features may require special management considerations or protection;

(d) What areas that are currently occupied and contain the physical or biological features essential to the conservation of the species should be included in the critical habitat designation and why;

(e) What areas not currently occupied at the time of listing are essential for the conservation of the species and why;

(f) The possible benefits and impacts (including economic impacts) of a possible critical habitat designation for the West Coast DPS of the fisher; and

(g) Whether the designation of critical habitat for the West Coast DPS of the fisher would be beneficial to the conservation of the species or whether the identification of specific areas as critical habitat may increase threats to the species or its habitat.

(4) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats.

(5) Any information on the biological or ecological requirements of the species and ongoing conservation measures for the species and its habitat.

(6) Information on land use designations and current or planned activities in the areas occupied by the West Coast DPS of the fisher or areas that may be important for their conservation, and possible impacts of these activities on this species and these areas.

(7) Information on the projected and reasonably likely impacts of climate change on the West Coast DPS of the fisher population and its habitat.

(8) Information on any foreseeable economic, national security, or other relevant impacts that may result if we designate any area as critical habitat. We are particularly

interested in any potential impacts on small entities, and the benefits of including or excluding areas from any possible future proposed designation that are subject to these impacts.

Please support submissions with documentation such as maps, bibliographic references, methods used to gather and analyze the data, or copies of pertinent publications, reports, or letters by knowledgeable sources. We request data from systematic surveys, studies or analysis of data regarding population size or trends, biology or ecology of the species, effects of current land management on population distribution and abundance, current condition of habitat, and conservation measures that have been implemented to benefit the species. We also request information on the current distribution of populations and threats to the species in relation to the five listing factors (as defined in section 4(a)(1) of the Act).

Comments merely stating support for or opposition to a particular action without providing supporting data may not meet the standard of information required by section 4(b)(1)(A) of the Act, which directs that determinations as to whether any species is a endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.” At the conclusion of the status review, we will issue either a not-warranted finding or proposed rules for listing and critical habitat, as provided in section 4(b)(3)(B) of the Act.

You may submit your comments and materials concerning this status review by

one of the methods listed in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that we will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we use in preparing this document, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the Yreka Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

This status review is being initiated as part of a multidistrict litigation settlement agreement under which the Service agreed to submit a proposed rule or a not-warranted finding to the **Federal Register** for the West Coast DPS of the fisher no later than the end of Fiscal Year 2014 (*In re Endangered Species Act Section 4 Deadline Litigation*, Misc. Action No. 10-377 (EGS), MDL Docket No. 2165 (D.D.C.)). The settlement agreement also provides that if we pursue listing of the West coast DPS of the fisher, we concurrently designate critical habitat for that DPS.

On April 8, 2004, we published a 12-month finding in the **Federal Register** stating that listing the fisher under the Act is warranted but precluded by other higher priority actions (69 FR 18770). We have annually reviewed this finding and monitored the status of the fisher, as required under 16 U.S.C. 1533(b)(3)(C)(i) and (iii), as reflected in the annual Candidate Notices of Review (CNORs). See the November 21, 2012, **Federal Register** (77 FR 69994) for the most recent CNOR. The Center for Biological Diversity challenged our expeditious progress in making a listing determination for the fisher (*Center for Biological Diversity, et al. v. Salazar, et al.*, No. 3:10-cv-01501-JCS, N.D. Cal.); this challenge was resolved by a joint stipulation of dismissal based on the settlement of the multidistrict litigation referenced above. For additional information on the West Coast DPS of the fisher, please see our April 8, 2004, notice of 12-month finding (69 FR 18770); the November 21, 2012, CNOR (77 FR 69994); or the species profile page at:

<http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?scode=A0HS>.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: March 5, 2013

Rowan W. Gould

Deputy Director, U.S. Fish and Wildlife Service

Billing Code 4310-55-P

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